

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:12-CR-132

v.

HON. ROBERT HOLMES BELL

MATTHEW PENALOZA,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Matthew Penaloza has filed a motion for modification or reduction of sentence (ECF No. 1521) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, because there would be no change in the offense level because the total number of units would increase from 1.5 to 2.5 and would result in a 3-level increase, as opposed to a 1-level increase, the Probation Office has now found Defendant ineligible for a reduction in sentence under Guideline Amendment 782. No objections to the report of eligibility have been filed in this matter.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 1521) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: June 9, 2015

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE